



# City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning & Development**  
D. M. Sugimura, Director

## **CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 2306579  
**Applicant Name:** Gordon Knight  
**Address of Proposal:** 2344 North 61<sup>st</sup> Street

### **SUMMARY OF PROPOSED ACTION**

Master Use Permit for future construction of a 440 sq. ft. detached garage (garage is already built).

The following approvals are required:

**Variance:** to allow an over height detached garage in the rear yard setback (SMC23.44.014D2a.).

**Variance:** to allow an over height detached garage in the side yard setback (SMC 23.44.040E).

**SEPA DETERMINATION:**      ☒ Exempt   ☐ DNS   ☐ MDNS   ☐ EIS  
  
   ☐ DNS with conditions  
  
   ☐ DNS involving non-exempt grading or demolition or  
   involving another agency with jurisdiction.

### **BACKGROUND DATA**

#### Site & Vicinity Description

Located in a Single-Family Residential 5000 (SF 5000) zone in the Green Lake Neighborhood of north Seattle, the 3,060 square foot lot sits on the north side of North 61<sup>st</sup> Street approximately

150 feet from the intersection of 1<sup>st</sup> Avenue NE and North 61<sup>st</sup> Street. The existing lot is rectangular in shape measuring 102 feet in length and 30 feet in width. A 16-foot wide alley abuts the site's northern property line. The lot is developed with a 912 sq. ft two story single family residence with a finished basement and a detached garage. The existing house was built in 1900, prior to the adoption of the City of Seattle's present zoning laws. The site is relatively flat from the rear to the front where a three foot concrete retaining wall has been used to raise the site above sidewalk grade fronting on North 61st Street. The residences in the neighborhood are predominantly one to one-and-half story, with some two-story homes scattered throughout the area. Abutting the subject property to the east and west are single family residences. Surrounding zoning is primarily Single Family 5000 (SF 5000). Development in the vicinity is predominantly single family residential.

Several detached accessory structures face the alley. In most cases, these are garages built in the same period as the principal residences; however, storage sheds and residential units built before zoning codes restricted the number of detached accessory units in single family zones, also sit behind the principle structures.

### Background

In May 2000, DPD received a complaint about an over height garage on the property. A city inspector noted the violation and on June 6, 2000 a notice of violation (NOV Case # 201819) was issued. The City's legal department accepted the NOV for legal action. A lawsuit has been started against the applicant in Municipal Court (Case Number 01-028) by The City of Seattle.

A MUP application for a variance was received October 7, 2003. A notice of application is dated October 23, 2003. The garage is already built.

### Proposal Description

The applicant requests a height variance for a two story, detached garage. The 352 square foot garage is 19 feet above the alley. Previously, the approved plan shows a garage roof peak to be 9 feet 6 inches above the alley. The Land Use Code limits the height of garages in required yards to 12 feet with an additional 3 feet allowed to accommodate a pitched roof.

### Public Comments

The public comment period for this proposal started on October 23, 2003 and ended on November 5, 2003. Four comment letters were received. One comment is skeptical because of the precedence that would be set by the proposal. Three of the four comment letters were in support of the proposal.

### ANALYSIS - VARIANCES

As provided in SMC 23.40.020, variances from the provisions or requirements of this Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

1. *Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;*

The size of the existing rectangular shaped lot is 3060 square feet and located in Single Family 5000 (SF-5000) zone. The site is developed with a house and detached garage built in 1900, prior to the existence of the current zoning regulations and Land Use Code requirements. The applicant is requesting a variance to allow an already built over height detached garage to be located within the required rear and side yard setback. The lot in question is 102 feet deep, 30 feet wide and abuts a 16 foot alley. For purposes of measuring a rear yard, according to SMC 23.44.014B half of the alley is treated as if it were part of the lot. The rear yard is 20 percent of the lot depth (102+8), or 22 feet measured from the center line of the alley. This would be 14 feet from the rear lot line. Accessory structures in required yards are limited to 12 feet in height, except that garages get an extra allowance of up to three feet for a pitched roof. The applicant has submitted plans of an already built garage, a portion of which is over the code's height limit for a detached garage in required yard. These portions of the garage are subject to the height limit of 12 feet (15 feet with pitched roof) for garages in yards, but are in fact to a height of 19 feet 6 inches.

According to DPD microfilm records, the applicant was granted a building permit (#700980) by Department of Planning and Development (DPD), in 1998, for the construction of code complying detached garage. The construction of the existing over height detached garage on site is created by the applicant or owner not an unusual condition applicable to the subject property, including size, shape, topography, location or surroundings. Seattle Municipal Code Section 23.44.016D3e provides that a garage may be located in the rear yard and the portion of the side yard within 35 feet of the centerline of the alley to the rear and that it may be located in other portions of the side yard by agreement with the neighbor. Contrary to the applicant's submittal information, the subject property does not harbor unusual physical conditions that would limit the ability to construct a code complying garage. Therefore, the strict application of this Land Use Code would not deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity.

2. *The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;*

There is no apparent justification for the over height garage. The Seattle Land Use and Zoning Code states that private garages in required yards "shall be limited to twelve (12) feet in height as measured on the facade containing the entrance for the vehicle." (SMC 23.44.016D2a and b) It adds that the ridge of a pitched roof on a detached garage may extend three feet beyond the 12 feet. The subject detached garage is approximately 19 feet 6 inches high. The applicant cites several detached garages along the alley as over height. Upon site visit and a walk along the alley, the Planner observed that several existing garages and sheds appear to comply with the Code's height limits as they are lower than 15 feet.

Therefore, the applicant's variance requests goes beyond the minimum necessary to afford relief. It exceeds the height limit and does not conform to the general pattern of detached structures adjacent to the alley.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;*

The over height garage could be a nuisance as it adds height and bulk thus limiting access to light and air to abutting property in the single family neighborhood. Access to light and air are important to residential neighborhoods and limiting this access may constitute a material detriment to the public welfare or injurious to property or improvements in the zone and vicinity in which the property is located.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship, or practical difficulties;*

There is no evidence of any hardship predicated upon the denial of the requested variance. The issued building permit (#700980) for a code complying garage readily illustrates this conclusion. Several solutions present themselves including modification of the structure to lower the roof height, and eliminating the portions of the building currently over height in the required yards.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

An over height, detached accessory structure, such as the one built, jeopardizes, albeit in a small way, the quality of life in the areas surrounding the site. The variance request is inconsistent with the Land Use Code's regulation of an alley structure's height, bulk and scale. The Land Use Code does not prevent the applicant's intention of adding storage capacity to the detached garage it only seeks to modify its execution.

### **DECISION - VARIANCE**

The proposed variance to allow an over height garage in the required rear yard setback is **DENIED**.

The proposed variance to allow an over height garage in required side yard setback is **DENIED**.

Signature: (signature on file) Date: January 5, 2004  
Christopher A. Ndifon, Land Use Planner.  
Department of Planning and Development  
Land Use Division.